

SEP 30 2005

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF
THE DENIAL OF APPLICATION
FOR LICENSE FOR
PATRICIA K. SMOLINSKI

)
)
)
)
)
)
)

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
RECOMMENDED ORDER,
AND ORDER

CAUSE NO. A-1632

This matter came on for hearing on the 29th day of September, 2005, before Janette Adair, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The matter arises out of a denial of an application for a resident insurance producer license. The Department of Insurance ("Department") was represented by its attorney, Keri Stasiuk. Patricia K. Smolinski ("Applicant") did not appear and was not represented by counsel. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. The Department presented evidence at the hearing and the matter was taken under advisement. The hearing officer hereby makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
2. On or about June 16, 2005, Applicant applied for a resident insurance producer license as evidenced by Exhibit 3.

3. Applicant disclosed information on her application regarding a prior criminal conviction based upon a guilty plea to a violation of 21 U.S.C. 846. (Ex. 3).

4. Applicant's application for a resident producers license was denied based upon the previous criminal history. (Ex. 3).

5. On or about July 13, 2005, Applicant requested a hearing to appeal the Department's denial for an insurance producer's license. (Ex. 1).

6. On or about July 27, 2005, a copy of a Notice of Hearing in this matter was served upon Applicant by certified mail, return receipt requested. A return receipt card from the United States Postal Service indicates a delivery date of July 29, 2005. (Ex. 2).

7. On or about August 23, 2005, a copy of an Order Continuing Hearing in this matter was served upon Applicant by certified mail, return receipt requested. A return receipt card from the United State Postal Service indicates a delivery date of August 25, 2005. (Ex. 2).

8. The Order Continuing Hearing that was served upon Applicant stated the correct date and time for this hearing.

9. On or about July 13, 2005, Applicant provided a letter of support from her employer Nancy A. Poore, Exclusive Agent for Allstate Insurance Company. (Ex. 1).

10. Applicant failed to appear at this hearing and presented no additional evidence in support of her license denial appeal.

11. Department presented evidence that Applicant was convicted of one count of Conspiracy to Distribute Methamphetamine; two additional related counts were dismissed pursuant to a plea agreement; Applicant was incarcerated, and is currently on supervised release. (Ex. 4).

12. The granting of a license by the Department is based upon the truth and veracity of the facts disclosed in the application, the testimony given and the evidence introduced into the record at the hearing.

CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control and discretion over the licensing of insurance producers to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101.01 and §44-4047 et seq.

2. The Department has personal jurisdiction over Applicant.

3. The Applicant's conviction of a felony constitutes sufficient basis to deny the issuance of an insurance producer license to Applicant pursuant to Neb. Rev. Stat. §44-4059(1).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended to the Director of Insurance that the Director deny Applicant's request for licensing as a resident insurance producer.

Dated this 30th day of September, 2005.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Janette L. Adair
HEARING OFFICER

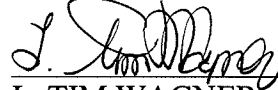
CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the

official and final Order of the Department In The Matter of the Denial of Application For
License For Patricia K. Smolinski, Cause No. A-1632.

Dated this 30th day of September, 2005.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law,
Recommended Order, and Order was served upon the Applicant by mailing a copy to Patricia
K. Smolinski, 516 E. 10th Street, Grand Island, NE 68801, by certified mail, return receipt
requested, on this 30th day of September, 2005.

